

Attention: Steven L. Weinstein  
From: Kevin P. Dittimus  
Date: 1/2/05

Urgent

3 pages  
total

Re: Application No. 10/801,378

The following is my response to your office  
action dated 10/4/04. Please contact me at  
713-409-8469 or 832-717-3410 or 832-717-  
3406 to discuss further.

Thank You for your time & consideration.

Sincerely,

Kevin P. Dittimus

RECEIVED  
CENTRAL FAX CENTER

JAN 02 2005

RECEIVED  
CENTRAL FAX CENTER

JAN 02 2005

RESPONSE TO OFFICE ACTION FOR APPLICATION NUMBER 10/801,378  
 APPLICANT KEVIN P. DITTIMUS  
 EXAMINER: STEVEN L. WEINSTEIN

RECEIVED  
 CENTRAL FAX CENTER

JAN 02 2005

The following is in response to your office action summary for my patent application number 10,801,378:

I respectfully request that my patent application be considered for allowance based on the results of my examining the documents you sent to me in your Office Action Summary in response to my patent application:

1. The patent application is not claiming that my invention would dissolve upon heating as one of the patents you submitted to me is claiming.
2. Also, my patent application is not claiming to be a health care item - as an agent against halitosis nor am I claiming that it is a biodegradable product.
3. In addition, the additives that I am claiming for the products are for the intent to provide different flavors for the products, not to prevent food deterioration or bad breath.
4. Also, the vast majority of these patents are concerning processing and methods of processing toothpicks.
5. Also, another question that comes to mind is if I called the invention "Toothpick" vs "Edible Toothpick", would patentability be allowed?
6. Also, if I went with a design patent vs a utility patent, could I get the invention patented in that manner?
7. Also, if I deleted references to the invention coming in different flavors and containing herbs, would patentability be allowed then.

Please contact me via my cell phone at 713-409-8469 or via my residential phone numbers at 832-717-3410 or 832-717-3406 to discuss this items in more detail. I am looking forward to your reply to the above items as well as working together as a team to realize my dream of obtaining a patent for my invention.

Sincerely,

Kevin P. Dittimus

**Office Action Summary**

Application No.

10/801,378

Applicant(s)

DITTIMUS, KEVIN P.

Examiner

Steven L. Weinstein

Art Unit

1781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-648)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date

- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other